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Dockets Management System
U.S. Department of Transportation
400 Seventh St., SW., Room PL 401
Washington, DC 20590

December 19, 2002

Re.: Docket Number RSPA-2002-13658 (HM-215E) - 8

Docket Manager,

Attached please find comments regarding the above cited NPRM which appeared in the Federal Register December 3, 2002.

In the event you have any questions or require electronic versions of any of the enclosed, please do not hesitate to contact me at the above numbers, or through e-mail at: rogers@natcargo.org.

Thank you in advance for your inclusion of the enclosed into the response procedures for further evaluation and incorporation. Have a wonderful and enjoyable season.

Best regards,

A handwritten signature in cursive script, reading "Sam Rogers".

Capt. Sam Rogers
Chief, Liner Activities
National Cargo Bureau, Inc.

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DEPT OF TRANSPORTATION
DEC 20 2002
10:43 AM

Proposed Revisions to 49 CFR, as indicated
Docket Number RSPA-2002-13658 (HM-215E)

[add] §171.7 Reference material. (in alphabetical order)

source/name	49 CFR reference
Code of Safe Practice for Solid Bulk Cargoes, 2001 Edition	176.140

[revise/add] §172.203(a) Exemptions and Approvals.

(1) Each shipping paper issued in connection with a shipment made under an exemption, competent authority approval, permit, ex number(s), or other authorizing document, must bear the identifying number of that relative document a clearly visible location following the basic description.

(2) A current copy of the exemption, approval permit, ex number(s), or other authorizing document identified on the shipping paper in must accompany the transport document.

[add] §172.203(j) Fumigated transport unit

(j) Each freight container or cargo transport unit which has been fumigated and is being offered for transportation, must have the statement “fumigated unit” included on the shipping paper following the basic description required by §172.202. In addition the date of fumigation and the type and amount of fumigant used must be included after the term “fumigated unit,” or so indicated on a separate document.

[add/revise] §176.2 Definitions

Cargo Transport Unit means a road freight vehicle, a railway freight wagon, a freight container, a road tank vehicle, a railway tank wagon or a portable tank.

Clear of living quarters [add] When an entry in the Table (172.101) is identified by this stowage criteria and is packaged in bulk-packagings and stowed “on-deck,” the minimum distance maintained must be one cargo hold from accommodations or other work space entrances. This definition does not apply to products transported in non-bulk packaging when transported in closed freight containers, and stowed “under-deck” when allowed by this subchapter.

Non-standardized cargo for the purposes of this subchapter, means a shipment of packaged Hazardous Materials which has been secured to a flat rack or other platform or conveyance, which is not classified as a closed, open freight container, or other cargo transport unit.

Possible sources of ignition means a potential or possible source of substantial heat, spark, flame, or exhaust which would cause ignition of flammable or explosive vapors under normal operating conditions. This definition includes those electrical appliances or apparatuses which are not intrinsically safe, or equivalently rated under domestic or international convention, when used on board a vessel including temporary service.

Segregation for the purposes of this subchapter the term includes: 1) the process of determining compatibility or incompatibility between different materials, hazardous or not, intended to be loaded either within the same CTU, or given vessel cargo space(s). 2) In the process of determining the appropriate stowage of hazardous materials aboard a vessel, the appropriate distances which must be maintained between different classes of hazardous materials in accordance with this subchapter and other international conventions.

Segregation group means one or more groups of like chemical characteristics, for which a material is assigned for purposes of stowage and segregation. When a material falls within one of the assigned segregation groups, for which a particular requirement applies, that material must be stowed in accordance with that requirement ie: “away from” or “separated from.”

[revise] §176.4 Port security and safety regulations.

(c)(i) All ships carrying class 1 explosives, division 1.1, 1.2, and /or 1.3, must notify the COTP for all scheduled in-transit ports of the true nature of the cargo. This information must include: the basic description, stowage configuration or arrangement, net explosive content, stowage position aboard the vessel, and any other information deemed necessary by the COTP.

(c)(ii) The notice required in paragraph (i) above, must be submitted to the COTP for each port scheduled for transit 96 hours in advance prior to entry into the designated port area in accordance with 33 CFR, Parts . . .

(c)(iii) All vessels loading, unloading, transferring or transiting a designated port area under the local COTP authority, must have approval from the local COTP for any material identified in (c)(i) prior to loading, unloading transferring or transiting the designated port facility.

[delete} §176.11 Exceptions.

(a) “The requirements of §§176.83, 176.84 and 176.112 through 176.174 are not applicable to shipments of Class 1 (explosives) materials made in accordance with the IMDG Code.”

(a)(1) “; or”

(a)(2) delete full text.

[revise] §176.13 Responsibility for compliance and training.

(b) A carrier may not transport a hazardous material by vessel unless each of its hazmat employees involved in that transportation is trained as required by:

(i) Subpart H of part 172 of this subchapter; or

(ii) The STCW or IMDG Code may be used to substitute the requirements of paragraph (i) if the training includes: general awareness/familiarization training; function specific training; safety training; and security training as mandated by Subpart H, of Part 172.

[revise/add] §176.15 Enforcement.

Revert (b) reserved to read:

(b) An agency or organization designated by the USCG and acting on behalf of the US government under the authority of the USCG may assist the USCG for purposes of paragraph (a) above.

[revise] §176.18 Assignment and certification.

(a)(1) Inspection of vessels, transport vehicles, freight containers or any other conveyance for the suitability for loading of hazardous materials.

(a)(4) Issuance of certificates of loading setting forth that the stowage of hazardous materials is in accordance with the requirements of this subchapter or other SOLAS regulations.

[revise/add] §176.24 Shipping papers.

Add the following sentence to (a):

(a) The shipping paper information required by 172.202, and those additional entries required by 172.203 may be presented on a multi-modal dangerous goods form as shown in the UN Recommendations, or IMDG Code.

[revise/add] §176.27 Certificate.

Revise (b) to read:

(b) In the case of an import or export shipment of hazardous materials multi-modal in nature, or not, the shipper may certify on the shipping paper that the hazardous material is properly classed, described, marked, packaged, labeled, placarded according to part 172 of this subchapter or in accordance with the requirements of the IMDG Code subject to the conditions and limitations of §171.12(b). The shipper's certification/declaration

required by §172.204 may appear on the shipping paper or other multi-modal form in lieu of an independent certificate or document.

Add new paragraph (d):

(d) For import or export shipments in accordance with §171.12(b), the container packing certificate required by §176.27(c) may appear on the shipping paper or other multi-modal form.

[revise/add] §176.30 Dangerous cargo manifest.

Revise the last two paragraphs and numbered entries where appropriate as follows:

(a) ... This document must be kept in a designated holder on the vessel's bridge while underway. This document, or official copies thereof, may be kept in the ship's office while cargo operations are being performed or for inspection purposes. The DCM must contain the following information:

(1) Name of vessel, nationality (flag of registry), and voyage number(s).

(2) Official number and/or IMO number assigned to the vessel.

(3) The port of loading (POL) and the port of discharge (POD).

(4) The stowage position of the freight container, transport unit, or shipment and the container identification number. When transporting break-bulk shipments some indication must be provided to cross-reference the shipment when not transported on a flat rack or non-standardized conveyance.

(5) The number and description of packages, and the gross weight for each type of packaging.

(6) The basic description required for each hazardous material on board as listed in 172.101 or in the IMDG Code, see §171.12(b). For the basic description see §172.202 of this subchapter.

(7) Any additional descriptions required by §172.203, or in or on the transport document(s), or by the competent authority concerned.

(8) same.

(9) The emergency response information required by §172.602(a). The emergency response information can be presented by cross-referencing an EmS or other guide-book number. Each carrier transporting a hazardous material for which an EmS number is used to cross-reference the required emergency response information shall ensure that a current copy of that document is carried aboard the vessel. When the emergency response

information is presented in a separate document such as an MSDS sheet, or on the shipping paper accompanying the shipment, this document must be kept with the DCM.

(10) An emergency response telephone number as required by §172.604 of this subchapter.

(11) Any additional reference number(s) deemed necessary by the carrier or his/her agent(s) as long as the additional information is not inconsistent with the shipment or could be misconstrued as an identification number for the material(s) concerned.

Revise paragraph (b) to read:

(b) The hazardous material information on the dangerous cargo manifest must be the same as the information furnished by the shipper on the shipping paper or multi-modal form. The agent or person who supervises the preparation of the manifest, list or stowage plan shall ensure that the information is correctly transcribed, and shall certify to the truth and accuracy of this information to the best of his knowledge and belief by his signature and notation of the date prepared.

Revise paragraph (c) to read:

(c) The carrier through their local representative (port captain or supercargo) or agent shall insure that the master, or licensed deck officer attached to the vessel, or in the case of a barge, the person in charge of the barge, acknowledges the correctness of the dangerous cargo manifest, list or stowage plan by his signature and date.

Add paragraph (f) to read:

(f) The form of information required by this section may be presented on the current FAL form 7, or the DCM Form available at <http://www.....> (attach enclosed form from appendix).

[revise/add] §176.31 Exemptions and Approvals.

Revise this section to read:

(a) If a hazardous material is being transported by vessel under the authority of an exemption or competent authority approval, a copy of the current exemption or approval must be carried on board the vessel.

(b) Any exemption or approval carried aboard a vessel in accordance with paragraph (a) must be carried with the dangerous cargo manifest.

[add] §176.39

Add two new paragraph as follows:

(a)(1) Each vessel transporting hazardous materials “On Deck” must lash and secure the cargo in accordance with the vessel’s approved Cargo Securing Manual prior to departing the port of loading, or whenever re-lashing of cargo transport units has been carried out during loading or discharging operations.

(a)(2) An entry into the vessel’s official log shall be made for any lashing operation carried out in accordance with the vessel’s approved Cargo Securing Manual.

[add] §176.45 Emergency situations.

add two new paragraphs as follows:

(c) Any action taken by the master, vessel or its agents in the event of accidents or incidents while in the territorial waters of the United States must be conveyed to the National Response Center at 1-800-424-8802; or, 1-202-267-2675 at the earliest practicable moment.

(d) In the event of any package damage resulting in leakage, spill, or undue hazards, the carrier must comply with the requirements of §171.16 of this subchapter.

[add] §176.50 Acceptance of damaged or leaking packages.

Add new paragraph (b) as follows:

(b) Packages offered for transportation as “salvage packaging” may be accepted for transportation and transported when packaged in accordance with part 173, or the IMDG Code, when transported for purposes of repackaging or disposal.

[add] §176.63 Stowage locations.

Add new paragraphs (a)(1) and (2) as follows:

(1) Each cargo vessel of 500 grt or more built after Sept. 1, 1984 must be issued a Document of Compliance in accordance with SOLAS Chapter II-2, Regulation 19; or, in accordance with the flag state Certificate of Inspection in accordance with the constructional requirements set forth in SOLAS '74 as amended.

(2) Prior to loading, or re-stowing hazardous materials aboard a vessel, the stowage locations authorized by §172.101(10A), or the IMDG Code, must be checked against a current certificate or document referenced in paragraph (a)(1) before loading or re-stowing takes place.

[revise/add] §176.69 General stowage requirements for hazardous materials.

Revise paragraph (a) as follows:

(a) When hazardous materials are stowed as break-bulk or in a non-containerized form, except for Class 9 materials, they must be stowed in a manner that will facilitate inspection during the voyage, removal from a potentially dangerous situation, and the removal of packages in case of fire or other known hazard(s), see §173.21(e).

Revise paragraph (b) as follows:

(b) Regardless of conveyance or method of transport, each package marked in accordance
....

Revise paragraph (c) as follows:

(c)(i) If a vessel designed for and carrying hazardous materials in closed freight containers is transporting those units in accordance with the vessel's valid Document of Compliance (SOLAS II-2, Reg 19.3), or Certificate of Inspection, additional fire fighting and fire extinguishing equipment may be required under the detailed requirements per class as listed in this subchapter.

(c)(ii) When a vessel carries hazardous materials for which no Document of Compliance, or Certificate of Inspection in accordance with SOLAS II-2, Reg. 19.3 has been issued:

- (1) Any "under deck" space used for the stowage of such hazardous materials must have a fixed fire extinguishing and detection system.
- (2) Any "on deck" stowage position must have fire fighting equipment capable of reaching and piercing the unit(s) containing the hazardous material.

[revise/add] §176.74 On deck stowage of break-bulk hazardous materials.

Revise paragraph (b) as follows:

(b) All packages containing hazardous materials loaded on deck as break-bulk either directly on the main deck, platforms, flat rack conveyance, or other unit, must be adequately secured and so determined by an annex 13 calculation of the vessel's approved Cargo Securing Manual.

Revise paragraph (c) as follows:

(c) All packages stowed on deck as break-bulk either directly on the main deck, platforms, flat rack conveyance, or other unit must be sheltered and stowed inboard on areas of exposed decks. No material identified by a label or placard of class 4.3, or Marine Pollutant, and shipped as break-bulk is permitted to be stowed "on deck" unless authorized by the Competent Authority concerned.

Revise paragraph (d) as follows:

(d) Not more than seventy five (75%) percent of the total open deck area should be used for the stowage of hazardous material, except Class 9 material, unless approved by the Competent Authority concerned.

Move paragraph (d) to (e)

Move paragraph (e) to (f)

Revise paragraph (g) as follows:

(g) A hazardous material may not be stowed within a horizontal distance of 25 feet of an operating or embarkation point of a lifeboat, accommodation or work space entrances; and, 50 feet away from all parts of the deck required in navigation and necessary working of the vessel.

Revise paragraph (h) as follows:

(h) Hazardous material stowed as break-bulk “on deck” must be stowed “away from” possible sources of ignition.

[revise/add] §176.76 Transport vehicles, freight containers, and portable tanks containing hazardous materials.

Revise paragraph (a)(10) by deleting last sentence.

Add paragraph (a)(11) to read as follows:

(a)(11) When stowing hazardous materials on platforms, flat racks, or any other non-standardized conveyance, the parcels must be packaged as per §176.74(a) and must be accompanied by a calculation which suffices either the rule of thumb method or the annex 13 calculation for the vessel’s approved Cargo Securing Manual.

Revise paragraph (b) to read as follows:

(b) Freight containers, portable tanks and any other conveyance authorized under the CSC convention to transport hazardous materials must be secured once stowed aboard the vessel in accordance with the vessel’s approved Cargo Securing Manual before the vessel departs the dock, and while the vessel is underway.

Revise paragraph (c) by re-designating paragraph (b) to (c).

Revise paragraph (h)(2) to read as follows:

(h)(2) The fumigated transport unit is accompanied by a shipping paper or other transport document showing the date of fumigation and the type and amount of fumigant used as required by §172.203(j).

[revise/add] §176.83 Segregation

Add this last sentence to paragraph (a)(1)

(1) For the purposes of determining segregation the different Divisions of classes as indicated in the General Segregation Table §176.83(b) are considered to be different classes.

Revise the last sentence of (a)(6)

(6) . . . For the purposes of this subpart, the segregation requirements corresponding to an explosive subsidiary hazard are those for Division 1.3, explosive materials.

Revise paragraph (a)(7) as follows:

(7) Where for the purposes of segregation, when incompatibility of materials, or units, has been determined, either by the general segregation table or a numerical provision in column (10B), the segregation requirements applies to:

(i) same, (ii) same.

Delete and revise paragraph (a)(9) as follows:

(9) Where for the purposes of determining segregation, when a numerical provision in column (10B) of the §172.101 Table indicates stowage “away from” or “separated from” a specific segregation group, the entries of that segregation group are identified in §176.85.

Revise the last sentence in paragraph (b)

(b) . . . If column (10B) of the §172.101 Table sets forth particular requirements for segregation, they take precedence over these general requirements.

[FOR EASE OF USE, PLACE TABLE §176.83(b) ON A SINGLE PAGE PLEASE]

[Add] §176.85 Segregation groups.

(a) General. For the purposes of determining segregation, when a numerical provision in §176.84 identifies “away from” or “separated from” a particular segregation group, the entries identified by each segregation group are considered mutually incompatible. These segregation groups are defined in §176.2, yet the carrier may deem it necessary to include other entries into these listed segregation groups when the properties or characteristics are

known to be similar in nature as with generic descriptions, or in the event of undue hazards, see §173.21(e).

(b) The segregation groups identified in this subpart are as follows:

- (1) Segregation Group 1: Acids
- (2) Segregation Group 2, Ammonium compounds
- (3) Segregation Group 3, Bromates
- (4) Segregation Group 4, Chlorates
- (5) Segregation Group 5, Chlorites
- (6) Segregation Group 6, Cyanides
- (7) Segregation Group 7, Heavy metals and their salts
- (8) Segregation Group 8, Hypochlorites
- (9) Segregation Group 9, Lead and compounds
- (10) Segregation Group 10, Liquid halogenated hydrocarbons
- (11) Segregation Group 11, Mercury and mercury compounds
- (12) Segregation Group 12, Nitrites
- (13) Segregation Group 13, Perchlorates
- (14) Segregation Group 14, Permanganates
- (15) Segregation Group 15, Powdered metals
- (16) Segregation Group 16, Peroxides
- (17) Segregation Group 17, Azides

[list entries as per UN recommendations]

[add/revise] §176, Subparts G through O

Specify when and or what cases do the detailed requirements pertaining to stowage and segregation apply to the classes as a whole, or only to break-bulk shipments, etc.

[revise] § 176.140

(b) Except for bulk Hazardous Materials not permitted by CFR 46, §§148.01-15, Class 1 (explosive) materials may be segregated from bulk solid dangerous cargoes in accordance with the Code of Safe Practice for Solid Bulk Cargoes, or under special permit of the local USCG, Captain of the Port.

DANGEROUS CARGO MANIFEST

(As required by CFR 49, §176.30; SOLAS '74, Chapter VII, reg. 5.5; and, MARPOL 73/78)

M/V S/S _____ FLAG _____ OFFICIAL NO. _____ VOYAGE _____

POL _____ POD _____ IMO NO. _____ Page _____ of _____

Stowage Position	CTU	# & kind packages	Proper Shipping Name (Technical Name)	Class (sub)	UN/NA Number	PG	Additional Descriptions	Gross / Net Mass (Wt.)	EmS	Emergency Response Tel. #	Additional Reference:

[Additional descriptions CFR // IMDG: Exemptions, Limited Quantities, Hazardous Substances, Radioactive Materials, Empty Packagings, Technical Names, Marine Pollutants, Poisonous Materials // Approvals, Aerosols, Salvage Packaging, Explosives, Infectious Substances, Wastes]

Preparer's Signature _____ Date _____ Master's Signature _____ Date _____